Implicit Bias and Anti-Bias Training

Sections 381-383 of June Special Session, Public Act No. 21-2 address implicit bias and anti-bias training. The Act directs the SDE, in consultation with the Minority Teacher Recruitment Policy Oversight Committee and State Education Resource Center, to develop and make available, no later than July 1, 2022, a video training module on implicit bias and anti-bias in the hiring process. For the school year beginning July 1, 2023, and each school year thereafter, local and regional boards of education must ensure that employees involved in or responsible for hiring educators successfully complete such training before participating in the district's educator hiring process. The Act also adds the video training module to the required in-service training.

Teacher Certification

Section 384 of June Special Session, Public Act No. 21-2 requires the SDE to study a multiple-measures approach for candidates to demonstrate content-area mastery of the content-areas assessment for teacher certification. The study must include, but is not limited to (1) a review of current assessment requirements for educator certification, (2) candidate first-time pass rates, (3) best attempt pass rates, (4) candidate access to and use of the free-retake policy, and (4) alternative multiple-measure pathways to demonstrate content-area mastery for certification. The SDE must submit a report on its findings and recommendations to the Education Committee by January 1, 2023.

Bilingual Education

Section 2 of Public Act No. 21-144 amends the requirements for certification as a bilingual education teacher. Applicants must demonstrate their competency in both English and the other language. Now applicants can demonstrate their competency in English and the other language by either successfully passing a required test or through a bachelor's degree or its equivalent in English as well as in the language for which they are seeking certification.

Further, on or after July 1, 2021, certification in elementary bilingual education is valid for grades kindergarten through nine and certification in middle grades bilingual education is valid for grades four through nine. The Act also directs the SDE, not later than January 1, 2022, to approve guidelines for unique endorsements to authorize the teaching of secondary bilingual humanities and secondary bilingual science, technology, engineering, and mathematics courses, and outlines the teacher requirements for those bilingual courses.

Age-Related Information on Employment Applications

Effective October 1, 2021, Public Act No. 21-69 makes it a discriminatory employment practice for employers, including boards of education, to request or require a prospective employee's age, date of birth, dates of attendance at or date of graduation from an educational institution on an initial employment application, unless the employer requests or requires such information based on a *bona fide* occupational qualification or need or in order to comply with state or federal law.

Disclosure of Salary Range for a Vacant Position

Effective October 1, 2021, Public Act No. 21-30 amends Conn. Gen. Stat. § 21-40z to prohibit employers, including boards of education, from failing or refusing to provide a job applicant with the "wage range" of the position for which

the applicant is applying. Under the Act, "wage range" is defined as "the range of wages an employer anticipates relying on when setting wages for a position, and may include reference to any applicable pay scale, previously determined range of wages for the position, actual range of wages for those employees currently holding comparable positions or the employer's budgeted amount for the position."

Accordingly, employers must provide the wage range before or when offering the applicant the job, or when the applicant requests it during the application process—whichever is earlier. Notably, the Act does not only apply to applicants. Rather, the Act also prohibits employers from failing or refusing to provide their employees with their position's wage range when hired, when their position changes, or upon employee request.

Equal Pay for Comparable Work

Section 2 of Public Act No. 21-30 amends Conn. Gen. Stat. § 31-75 (the State's equal pay law). Currently, the law provides that an employee alleging pay discrimination must prove that the employer pays employees of one sex a lower wage than employees of the opposite sex for equal work that requires equal skill, effort and responsibility under similar working conditions. Beginning October 1, 2021, employees will now be required to prove the employer pays employees of one sex a lower wage for comparable work when viewed as a composite of skill, effort and responsibility under similar working conditions.

Employers will still be able to defend against such a claim by showing that their pay system differentiates between employees based upon a *bona fide* factor other than sex, such as education, training or experience. The Act identifies other *bona fide* factors to include credentials, skill and geographic location.

Breastfeeding in the Workplace

Public Act No. 21-27 adds three new conditions to the existing requirement that an employer provide a lactation room or other location in the workplace for a mother to express breast milk. Previously, Conn. Gen. Stat. § 31-40w only required that such room or location be private, in close proximity to the work area, and not a toilet stall. Effective October 1, 2021, absent undue hardship, such room or location must also:

1. be free from intrusion and shielded from the public while an employee expresses breast milk;
2. include or be situated near a refrigerator or employee-provided portable cold storage device in which the employee can store her breast milk; and
3. include access to an electrical outlet.

Pursuant to this Act, an employer is not required to meet these new conditions if it can establish that it would suffer an undue hardship.

Sexual Harassment Prevention Training

Conn. Gen. Stat. § 46a-54(15) requires that employers generally must provide their employees, within specified deadlines, two hours of training on sexual harassment laws and remedies available to victims. The Commission on Human Rights and Opportunities ("CHRO") was required to develop and make available to employers a free, online training video that meets these training requirements. Under Public Act No. 21-109, effective October 1, 2021, if an employee has training provided by the CHRO while employed by a different employer within the two years preceding the date of hire, a new employer may consider such prior training to meet the sexual harassment training requirements.

TRB Exemption for Reemployed Teachers

The Teachers' Retirement Act generally imposes a 45% cap on the salary amount that retirees receiving Teachers' Retirement Board ("TRB") benefits may receive if they return to a teaching position in a publicly funded school, subject to certain exemptions set forth in the Act. For the period between July 1, 2016, and June 30, 2020, the Act included a specific exemption for a teacher who (1) is receiving TRB benefits based on at least 34 years of credited service, (2) is reemployed as a teacher in an alliance district, and (3) was serving as a teacher in that district on July 1, 2015. Section 476 of June Special Session, Public Act No. 21-2 amends Conn. Gen. Stat. § 10-183v(a)(2) to extend this exemption until June 30, 2024.

Union Access to Employees

Public Act No. 21-25, which becomes effective on October 1, 2021, sets forth new obligations on public employers, including boards of education, regarding access to their employees and payroll deductions. The Act requires that public employers must provide the exclusive collective bargaining representative with a newly hired employee's (1) name; (2) job title, department, and work location; (3) work phone number; and (4) home address. This information must be provided in an editable digital file format, and if possible, in a format agreed to by the union. If possible, the employer must also provide the information with real-time electronic transmission of new hire data, but no later than ten days after the employee was hired or the first pay period of the month after the employee was hired, whichever is earlier.

Beginning on January 1, 2022, public employers are required to provide the exclusive collective bargaining representative with each bargaining unit employee's (1) name; (2) job title; (3) worksite location; (4) work phone number; (5) hire date; (6) work email address; and (7) home address. The employer must provide the information in an editable digital file format agreed to by the union (1) every 120 days, unless an agreement between the parties requires more frequent or more detailed lists, and (2) in addition to any other employee information to which a union is entitled. If authorized by the employee via written authorization provided to the union, the information above must also include the employee's home telephone number, personal cell phone number, and personal email address if on file with the public employer.

Further, the exclusive collective bargaining representative must be given access to new employee orientations and must be given notice of the orientation at least ten days in advance. The parties must negotiate these issues upon either party's request. In the event that the parties are unable to reach agreement on such issues, the statute provides for an expedited arbitration process regarding those matters.

Public employers must also provide such representatives with access to the employees they represent, including the right to: (1) meet with individual employees on the employer's premises during workdays to investigate and discuss grievances, workplace-related complaints, and other workplace issues; (2) conduct worksite meetings on the employer's premises before and after the workday and during meal periods and other paid or unpaid breaks; and (3) meet with a newly hired employee within the bargaining unit, without charge to the employee's pay or leave time, for between 30 and 120 minutes within 30 calendar days after the employee is hired, during orientations, or if the employer does not hold orientations, at individual or group meetings.

The Act permits public employees and retirees to authorize deductions from their salaries, wages, or retirement benefits to pay union dues, and it regulates how employers may require employee authorization of deduction for union dues. Public employers must now rely on certification from the public employee organization attesting that the

employee in question has provided written authorization for any such deductions, and the employer may not require that the public employee organization produce the actual authorization from the employee unless there is a dispute over whether the employee provided such authorization. The Act also provides that employees may withdraw their authorization for the deduction of union dues only in accordance with the terms of the authorization. Moreover, the Act provides that the public employee organization must indemnify the employer if it makes an improper deduction in reliance on the organization's certification.

Finally, the Act makes it a prohibited labor practice for a public employer to do any of the following: (1) encourage an employee to resign or decline membership in a union; (2) encourage an employee to revoke authorization for a payroll deduction of dues to a union; (3) knowingly aid such an effort by another entity; or (4) allow an entity to use the employer's email system to discourage membership in a union or discourage authorization of payroll deductions for the union's dues.

Time Off to Vote

Employers are now required, through June 30, 2024, to give an employee two hours of unpaid time off on the day of a regular state or special election to vote, if the employee requests it at least two days in advance. Section 94 of June Special Session, Public Act No. 21-2 is effective from passage.

MISCELLANEOUS STATUTORY CHANGES AFFECTING SCHOOLS

Cannabis Law

Effective July 1, 2021, Connecticut became one of a growing number of states to legalize the recreational use of marijuana. Pursuant to June Special Session, Public Act No. 21-1, it is now legal in Connecticut for individuals age 21 or older to possess, use or otherwise consume marijuana or marijuana products, subject to certain restrictions and limitations, effective July 1, 2021. The Act is extensive, and the following provisions are of primary concern to local and regional boards of education.

Section 19 of the Act amends Conn. Gen. Stat. § 10-221(d), which requires local and regional boards of education to develop, adopt and implement policies and procedures for (1) dealing with the use, sale or possession of alcohol or controlled drugs by public school students on school property, including coordination with and referral to appropriate agencies, and (2) cooperating with law enforcement officials. The Act provides that, as of January 1, 2022, no such policies and procedures shall result in a student facing greater discipline for the use, sale or possession of cannabis than a student would face for the use, sale or possession of alcohol.

Section 95 of the Act, effective July 1, 2021, generally prohibits an educational institution from disciplining a student solely on the basis of a drug test that yields a positive result solely for a specific metabolite of THC.

Provisions regarding workplace regulation of cannabis do not become effective until July 1, 2022. However, Section 97 of the Act identifies various employers as "exempted employers," including employers whose primary activity consists of educational services. Therefore, many provisions of the Act will not apply to local or regional boards of education or their employees, and boards can continue to refuse to hire or take disciplinary action for possession, use or consumption of marijuana inside or outside the workplace, with or without a policy in place, and in accordance with applicable law.

Finally, effective October 1, 2021, Section 86 of the Act amends Conn. Gen. Stat. § 19a-342 to define "smoke" or "smoking" as "the burning of a lighted cigarette, cigar, pipe or any other similar device, whether containing, wholly or in part, tobacco, cannabis, or hemp." The Act continues to prohibit smoking on school grounds and in school buildings, clarifying that such prohibition extends to any area of such building. Section 87 of the Act amends Conn. Gen. Stat. § 19a-342a and extends the prohibition against using an electronic nicotine delivery system or vapor product on school grounds or in a school to also prohibit use of an "electronic cannabis delivery system" in such locations. The new law maintains the obligation to post signs stating that use of electronic nicotine delivery systems, and now electronic cannabis delivery systems, or vapor products must be posted in a conspicuous place, but clarifies that signs need not be posted in every room of the building.

Discrimination on the Basis of Race, Including Hair Texture and Protective Hairstyles, is Prohibited

While Conn. Gen. Stat. § 46a-60 already prohibits discrimination on the basis of race, Public Act No. 21-2, effective March 4, 2021 (known as the "CROWN Act"), now defines "race" as "inclusive of ethnic traits historically associated with race, including but not limited to, hair texture and protective hairstyles." "Protective hairstyles" is defined as "includes but is not limited to, wigs, headwraps and hairstyles such as individual braids, cornrows, locs, twists, Bantu knots, afros and afro puffs."

Anti-Discrimination

Conn. Gen. Stat. § 10-15c provides that a child has an equal opportunity to participate in school and related activities without discrimination based on race, color, sex, gender identity or expression, religion, national origin, or sexual orientation. Section 405 of June Special Session, Public Act No. 21-2 revises the education anti-discrimination law by adding "disability" to the list of groups with protected status. Under Title II of the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973, however, boards of education have long been prohibited from discriminating against students on the basis of disability. The Act also modifies the education anti-discrimination law to conform the definition of race to the definition in the human rights statute, as amended by the CROWN Act as defined above.

Remote Board of Education Meetings

Under the Freedom of Information Act, public agencies, including boards of education, must make their meetings, other than executive sessions, open to the public. Section 149 of June Special Session, Public Act No. 21-2 allows public agencies, until April 30, 2022, to hold public meetings that are accessible to the public through electronic equipment, or through electronic equipment in conjunction with an in-person meeting. The Act establishes several requirements for meetings held using electronic equipment, including that votes generally be conducted by roll call and that members of the public have the same participation opportunities as they would for an in-person meeting. The Act also requires public agencies to provide its members the opportunity to participate by means of electronic equipment. Sections 152 and 153 of the Act also expand a public agency's authority to remove disorderly individuals attending a meeting by electronic equipment.

Timeline for Filing Complaints of Discrimination with the CHRO

Under current law, claimants have 300 days to file complaints for certain types of discrimination (e.g., employment and several types of state agency discrimination) and 180 days for other types (e.g., housing, public